

AMENDED IN SENATE MARCH 17, 2005

SENATE BILL

No. 217

Introduced by Senator Dutton

February 10, 2005

An act to amend Section ~~205~~ 17049 of the Revenue and Taxation Code, relating to taxation, *to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 217, as amended, Dutton. ~~Property taxes: veterans' exemption~~
Income taxes: claim of right.

The Personal Income Tax Law, in specified conformity with federal income tax law, provides that if a taxpayer includes an item of income in gross income because it appears that the taxpayer has an unrestricted right to that income, and the taxpayer is subsequently required to repay that item, the taxpayer may deduct the repayment in the year the repayment is made and that his or her taxes are to be calculated in a specified manner. That law provides that the deduction may not be claimed if the taxpayer takes a claim of right deduction on his or her federal return.

This bill would apply those provisions to any taxable year of an individual for which a claim for refund may be filed, and for any taxable year for which an individual has a pending claim for refund that has not been finally adjudicated. This bill would delete the limitation that a deduction may not be claimed if a deduction was taken on the federal return.

This bill would take effect immediately as a tax levy.

~~The California Constitution exempts from property taxation property in the amount of \$1,000 of a veteran, as specified, who, among other conditions, served in a time of war or in a time of peace in a campaign or expedition for which a medal has been issued by~~

Congress. Existing property tax law defines a “war” and a “campaign” for purposes of this exemption.

~~This bill would make a technical, nonsubstantive change to the statute that defines “war” and “campaign” for purposes of the veterans’ exemption.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 205 of the Revenue and Taxation Code~~
2 ~~is amended to read:~~

3 ~~SECTION 1. Section 17049 of the Revenue and Taxation~~
4 ~~Code is amended to read:~~

5 ~~17049. (a) If an item of income was included in the~~
6 ~~California adjusted gross income of an individual for a preceding~~
7 ~~taxable year or years because it appeared that the individual had~~
8 ~~an unrestricted right to that item, and, based on the repayment of~~
9 ~~the item by the individual during the taxable year, that individual~~
10 ~~properly determines his or her federal income tax liability for the~~
11 ~~taxable year under Section 1341(a)(4) or (5) of the Internal~~
12 ~~Revenue Code, then the tax imposed by this chapter for the~~
13 ~~taxable year on that individual shall be an amount equal to (1) the~~
14 ~~tax for the taxable year computed without regard to this section,~~
15 ~~minus (2) the decrease in tax under this chapter for the preceding~~
16 ~~taxable year or years which would result solely from the~~
17 ~~exclusion of the item or portion thereof from the adjusted gross~~
18 ~~income required to be shown on the California return of that~~
19 ~~individual for the preceding taxable year or years. This section~~
20 ~~does not apply if the repayment is properly deductible in~~
21 ~~determining the individual’s federal adjusted gross income for~~
22 ~~the taxable year, and that individual properly determines his or~~
23 ~~her federal income tax liability for the taxable year under Section~~
24 ~~1341(a)(4) of the Internal Revenue Code by deducting that~~
25 ~~repayment.~~

26 ~~(b) In determining the decrease in tax under this chapter for~~
27 ~~the preceding taxable year or years that would result solely from~~
28 ~~the exclusion of the item or portion thereof from the California~~
29 ~~adjusted gross income of that individual for the preceding taxable~~
30 ~~year or years, any item excluded from the California adjusted~~

gross income of an individual for a preceding year or years in which the individual was a nonresident individual or part-year resident individual, shall, to the extent that the item is derived from or connected with sources within this state, be excluded from California adjusted gross income derived from or connected with sources within this state for that preceding year or years.

(c) If the decrease in tax under this chapter for the preceding taxable year or years, that would result solely from the exclusion of the item or portion thereof from the adjusted gross income required to be shown on the California return of that individual for the preceding taxable year or years, exceeds the tax for the taxable year computed without regard to this section, that excess shall be considered to be a payment of tax on the last day prescribed for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for the taxable year.

(d) *This section shall apply to any taxable year of an individual for which a claim for refund may be filed, and for any taxable year for which an individual has a pending claim for refund that has not been finally adjudicated.*

SEC. 2. *This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.*

~~205. The veterans' exemption is as specified in subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution.~~

~~The following are wars under subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution:~~

- ~~(a) Revolutionary War, April 19, 1775–January 14, 1784.~~
- ~~(b) Second War With England, June 18, 1812–February 17, 1815.~~
- ~~(c) Black Hawk War, April 6, 1832–August 2, 1832.~~
- ~~(d) War With Mexico, April 24, 1846–May 30, 1848.~~
- ~~(e) Civil War, April 18, 1861–August 20, 1866.~~
- ~~(f) War With Spain, April 21, 1898–April 11, 1899.~~
- ~~(g) War in Philippines, April 11, 1899–July 4, 1902.~~
- ~~(h) Chinese Relief Expedition, June 20, 1900–May 15, 1901.~~
- ~~(i) Campaign against the Rogue River, Yakima, Nez Percé, and Snake Indians in Oregon and Washington, 1855–1856.~~
- ~~(j) Campaign against the Indians in southern Oregon and Idaho and northern California and Nevada, 1865–1868.~~

- 1 ~~(k) Campaign against the Cheyennes, Arapahoes, Kiowas, and~~
2 ~~Comanches in Kansas, Colorado, and Indian Territory,~~
3 ~~1867-1869.~~
4 ~~(l) Modoc War, 1872-1873.~~
5 ~~(m) Campaign against the Apaches in Arizona, 1873.~~
6 ~~(n) Campaign against the Kiowas, Comanches, and Cheyennes~~
7 ~~in Kansas, Colorado, Texas, Indian Territory, and New Mexico,~~
8 ~~1874-1875.~~
9 ~~(o) Campaign against the Northern Cheyennes and Sioux,~~
10 ~~1876-1877.~~
11 ~~(p) Nez Percé War, 1877.~~
12 ~~(q) Bannock War, 1878.~~
13 ~~(r) Campaign against the Northern Cheyennes, 1878-1879.~~
14 ~~(s) Campaign against the Ute Indians in Colorado and Utah,~~
15 ~~September 1879-November 1880.~~
16 ~~(t) Campaign against the Apache Indians in Arizona,~~
17 ~~1885-1886.~~
18 ~~(u) Campaign against the Sioux Indians in South Dakota,~~
19 ~~November, 1890-January 1891.~~
20 ~~(v) War With Germany-Austria, April 6, 1917-November 11,~~
21 ~~1918.~~
22 ~~(w) Campaign against the Apache Indians in Arizona,~~
23 ~~1895-1896.~~
24 ~~(x) World War II, December 7, 1941, to January 1, 1947.~~
25 ~~(y) Campaign against the North Koreans and Chinese~~
26 ~~Communists in Korea, June 27, 1950, to January 31, 1955.~~
27 ~~(z) Campaign against the Viet Cong and North Vietnamese~~
28 ~~Communists in South Vietnam, August 5, 1964, to May 8, 1975.~~
29 The following are campaigns under subdivisions (o), (p), (q),
30 and (r) of Section 3 of Article XIII of the Constitution:
31 (a) First Nicaraguan campaign.
32 (b) Second Nicaraguan campaign.
33 (c) Yangtze River campaign in China.
34 (d) All other campaigns for service for which a medal has
35 been issued by the Congress of the United States.